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THE PRESENT STATE
OF
THE AFRICAN SLAVE-TRADE:

AN
EXPOSITION OF SOME OF THE CAUSES OF ITS CONTINUANCE
AND PROSPERITY, WITH SUGGESTIONS AS TO THE
MOST EFFECTUAL MEANS OF REPRESSING
AND EXTINGUISHING IT;

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ON the 21st of April, 1858, the President of the United States transmitted to the Senate an answer to a resolution of that body, passed on the 19th of January preceding. By that resolution the President had been requested to communicate any information in his possession, derived from the officers connected with the American squadron on the coast of Africa, or from the British or French governments, &c., concerning the condition of the African slave-trade.

The message of the President in response was accompanied with reports from the Departments of State and the Navy, containing several communications upon the subject of inquiry. It is to be regretted that the information thus given, although highly important and interesting, was restricted to a very narrow and recent period of time. The terms of the resolution of the Senate would, we think, have authorized a reference to correspondence of a remoter date, and we have reason to believe that there exists, among the archives of the Navy Department, reports from the officers in command of the African squadron, extending through a series of years, all substantially relating the same story, and fully corroborating the statements now communicated to the public. The papers emanating from British authorities necessarily imply, that a great mass of information exists among the archives or under the control of that government, which would throw a broad and distinct light upon this interesting subject.

The African slave-trade, for near a century, has excited the earnest attention of Christian philanthropists and statesmen on both sides of the Atlantic. Recently it has, in real or pretended efforts to extirpate it, assumed an importance independent of its original character. The measures which have been taken, ostensibly, at least, to put an end to the African slave-trade, have—whether from a misconception of the means best calculated to effect that object, or from errors in the execution—given rise to proceedings, not only involving the original subject in new complications, but threatening, at times, results of the most serious character, and most deeply to be deprecated. The avowed

object of Great Britain to extinguish the African slave-trade, at all hazards and by any means, has led to the assertion of a maritime right of detention and search, which the Government and people of the United States, with an unanimity rarely exhibited, as absolutely refuse to acknowledge. It is believed that this right is claimed and certainly exercised in relation to the vessels of no other nation, with the single exception of the United States, unless such right has been expressly conceded by treaty. We never hear of a French vessel, or one under the French flag, being detained, searched, or captured as a prize. This distinction renders the procedure especially galling to the people of the United States. It seems like adding insult to wrong, and we certainly regard it as an aggravation of the outrage. However we may abhor this traffic, this nation can never recognize, even as a means to the suppression of this stupendous evil, a right on the part of any foreign power to accomplish the object by the exercise of a right claimed by it to invade our own jurisdiction, and to violate, what we apprehend to be, our national dignity and independence. We are ready to pass any laws to suppress this trade in human flesh—a traffic which reduces the African to slavery, consigns him to all the horrors of the middle-passage, and places him and his posterity in a perpetual position of the most hopeless, helpless, degraded, and cruel servitude.

We, however, entirely concur in the view taken of the subject by Lord Stowell. That eminent Judge remarks, that—

“No nation has a right to force its way to the liberation of Africa by trampling upon the independence of other states, on the pretence of an eminent good, by means that are unlawful, or to press forward to a great principle by breaking through other great principles which stand in their way.”

The great principle which we assert is briefly this; that to every nation appertains the common duty of enforcing and obeying the law of nations, but that each has the exclusive right to compel obedience to its own municipal laws and institutions.

There can be little doubt that the mass of the people of the United States and Great Britain, as well as the two governments, are sincere in their denunciations of this odious traffic, and would willingly adopt measures calculated effectually to suppress it. It has been stigmatized by both as an atrocious crime, and both have denounced it in their penal codes as meriting the most severe punishment. They had, each acting in its separate sphere, enacted the most stringent laws designed to accomplish this result, and had entered into mutual stipulations, by the treaty of 1842, to maintain a squadron on the coast of Africa to enforce, *separately and respectively*, the laws, rights, and obligations of the *respective parties*, for the suppression of the slave-trade. It was further agreed, that the two governments would unite in all becoming representations and remonstrances with any and all powers, within whose dominions markets for African slaves were allowed to exist, and would urge upon such powers the propriety and duty of closing such markets effectually, now, and forever.

It was hoped and believed by the two distinguished statesmen who negotiated this treaty, as well as by their respective governments which

ratified it, that a powerful restraint, if not an absolute stop, would, by these measures, be put to this nefarious traffic. Experience, however, has shown that no mere treaty stipulations or legislative enactments can execute themselves or ensure the observance of them by unprincipled men.

The administration of the law must be entrusted to subordinates not always vigilant or honest in the performance of their duties; and its most cautiously guarded provisions may be violated or evaded by individuals, restrained by no obligations, human or divine, and stimulated to the criminal exercise of their ingenuity by the all-powerful expectation of large pecuniary profit.

It is believed that the two nations, so far as their respective governments are concerned, have faithfully performed the obligations they had assumed. They have each kept up a squadron on the coast of Africa; they have, it is believed, united in representations to, and remonstrances with, the powers within whose dominions markets for the African slaves existed.

The insufficiency of these means to accomplish the desired end is but too apparent and is universally conceded. The slave-trade not only continues to exist, but, as we are informed from various quarters, may be said to flourish. Despite the watchfulness exhibited by the custom-house and other officers in the home-ports, and the vigilance of the naval forces on the coast, numerous slavers constantly accomplish successful voyages; cargoes of their unfortunate victims are transported across the Atlantic, and notwithstanding the earnest and repeated efforts of the two governments, are almost weekly landed in Cuba.

The unprincipled avarice of the slave-dealer has outwitted the sagacity of the diplomatist. It has disappointed the expectations of all who were instrumental in the formation of the treaty of 1842. Spain, either regardless of the treaty obligations into which she had been induced to enter for a high pecuniary consideration, or impotent to enforce their execution, has utterly failed to perform that duty, which, as a Christian nation, she was under the most positive obligations to enforce, and to which she had solemnly pledged herself.

The honest opponents of this odious trade have witnessed, with amazement and sorrow, the disappointment of all the hopes which they had fondly cherished. The inquiry is constantly made, to what causes is this failure to be attributed? How has it happened that the results, which it was anticipated would follow from the treaty of 1842, have not been realized? That the hopes and expectations of sagacious statesmen and real philanthropists have been so utterly baffled? Have the provisions of that convention been proved by experience to be wholly inadequate to accomplish their professed object? Have there been defects in the administration of the law, negligence or faithlessness in the performance of their duty on the part of those to whom its execution was entrusted? Does anything remain yet to be done, in either aspect of the case, to ensure the accomplishment of the great design?

We think that in the interesting document, to which we have al-

luded in our introductory remarks, much may be found responsive to these interrogatories. Glimpses, at least, are furnished, which indicate to us the real causes of the failure which all acknowledge, and which all good men sincerely regret. The masterly reply of Mr. Secretary Cass, in his communication to Lord Napier, of the 10th of April, 1858. (p. 42,) has exhibited very clearly some of the points which are suggested by the papers accompanying the President's message. General Cass was, however, restricted by diplomatic courtesy from that full presentation of the case which he might have drawn from that and other sources. It shall be our object in the following pages, while following the track which the Secretary has opened, (*hanc passibus aquis*), to avail ourselves of the dim lights thus afforded, and with such additional aid as may be derived from other quarters, to point out some of the causes which have led to these deplorable results, and thus, perhaps, to suggest a remedy which may be applied to the disease.

As preliminary to this more immediate purpose, it may not be deemed altogether inappropriate to advert to some points which have been suggested from different quarters, bearing directly or indirectly upon the question.

Various and sometimes antagonistic views have been taken by the different individuals, or we may say parties, who have discussed this interesting subject—various causes have been assigned to account for the failure of the experiment, as it may be called. It is, however, apparent that, in the assignment of these causes, extraneous motives, or, at least, feelings and prejudices have been allowed to operate, which not only mislead the judgment by raising false issues, but have sometimes produced exacerbation of feeling on the one side or the other and which certainly have a tendency to divert our attention from the real and substantial points of inquiry. In this case, as not unfrequently happens, the parties immediately concerned are to a greater or less degree influenced by a desire rather to present every ground of self-exculpation and to cast blame on others, than impartially to submit to the fair examination of the entire case, with no controlling influences to guide, and no desire to exculpate one at the expense of another. This is a too common inclination in all controversies in which criminality and consequent responsibilities are assumed to exist somewhere; and the respective parties seem to be more inclined to discover or imagine grounds upon which to inculcate others, than to find a sufficient justification in the actual truth for their own conduct.

Thus, in the present case, we perceive among our consins, (as they sometimes call us,) on the other side of the water, that, without exception, every diplomatist, every speaker in Parliament, every declaimer at the hustings, every contributor to the numerous journals, concurs in attributing the present lamentable condition of the African slave-trade to the inadequacy of our law, the negligence or imbecility of the American Government and its officials, or to the persevering activity of our people in opposition to and despite the professed wishes of that government. It is intimated in no very measured terms that slavery being an institution actually existing among us, recognized by

our Constitution and laws as one which is entirely in accordance with the ordinances of God, the precepts of Christianity, the obligations of humanity, and thoroughly incorporated into our very national policy and feeling; the trade itself, by which Africans are originally placed in the position of slavery, cannot be held in such entire and absolute abhorrence as in a country whose every sentiment is hostile equally to its existence and continuance; whose laws, and the principles upon which those laws are founded, breathe nothing but hostility to slavery in every form; a nation which proclaims, with what is sometimes, perhaps, not unjustly thought the pharisaical self-congratulation, we thank God we are not sinners as other men, or even as this publican, that its soil is too sacred and its atmosphere too pure to permit under any form and to any extent the simple existence of slavery; that as soon as the wretched slave touches the hallowed soil, or breathes the atmosphere of England, his manacles disappear, the fetters fall from his limbs, and he stands erect, "redeemed, regenerated, and disenthralled by the irresistible genius of universal emancipation." Ever since Cunan, in 1794, employed this euphonious phrase in one of his splendid declamations, it has been in substance, if not in its precise terms, embodied in the language of England, imbedded, as it were, into all the habitudes of thought of the nation. Of late years, adopted in Exeter Hall, it has become as absolutely an article of religious as of political faith. So entirely has this sentiment become incorporated into the very substance of English thought, that it is recognized almost as an axiomatic truth among large classes of the British nation, that no one of their people can possibly be either directly or indirectly concerned in countenancing this atrocious crime of trading in human flesh or profiting by the continuance of the traffic. The legal guilt of such a party would be nearly, if not entirely, extinguished and absorbed in the more heinous offense of violating by such enormity the moral sense of the community of which he is a member. The inference from this mode of reasoning, entirely conclusive upon many minds, is, therefore, that no portion of the guilt of the present African slave-trade is attributable, either in the concrete or individually, to Great Britain or her subjects, but is mainly to be charged upon the Americans, who are, to a certain extent, leagued in feeling and in principle with the Spanish and Portuguese operators. England has, in all the ramifications of her society, from the crown to the peasant, in every sphere in which public opinion is either created or manifested, her Parliament, her judicial tribunals, her pulpits and religious associations, her popular meetings and her press, condemned and denounced this nefarious traffic, while in the United States slavery is in full vigor, recognized by our laws, advocated by our statesmen, defended by our clergy, and, consequently, the means in which this cherished institution originated cannot be severely condemned or be regarded as very repugnant to our principles of morality.

Starting from these original grounds, assuming these as undeniable truths, it is not surprising that the real merits of the matter at present in controversy are, if not wholly lost sight of, decided in advance; that whatever of investigation into those merits occurs, is conducted

under the influence of pre-existing prejudices and of a forgone conclusion, and that a condemnatory judgment is formed and pronounced before the evidence has been examined or the case heard.

It does not comport with our present design to present so ample and conclusive a reply to this *a priori* argument as the case admits. On this side of the Atlantic the facts are too familiar to require much detail in such an answer. On the other side they would, as has repeatedly happened, be either ignored or disregarded. We cannot, however, forbear presenting a very brief and concise view of the antecedents in the history of the two countries which may have escaped the attention of some candid inquirers, and which, to some extent, supply an answer to the argument to which reference has been made.

It is unnecessary particularly to advert to our colonial history. While subjected as we were to the paramount authority of the mother country, we possessed no ability to frame our own laws, but every legislative action on our part was subordinate to the superior government, and amounted rather to the expression of our wishes than to the force of a legislative enactment which we were competent to ordain and empowered to enforce. It is sufficient to say, that under these circumstances several of the thirteen Colonies did pass laws prohibiting the introduction of slaves, but these laws were wholly inoperative until they were approved by the competent authority in England. Under the influence of the political and mercantile interests of the mother country, identified with the slave-trade, these colonial laws were uniformly vetoed. Our expressed wishes and our repeated efforts to put a stop to this traffic were overruled, and African slaves were forced upon the Colonies, despite all their remonstrances, by the absolute authority of the British nation. If necessary, numerous facts might be adduced from our Colonial history corroborative of this statement. We proceed to our future and more independent action. Not long after the commencement of the Revolutionary struggle, before we had absolutely and forever thrown off the British yoke, the Continental Congress—which possessed no actual legislative power, but could only operate by the way of recommendation—as early as April, 1776, passed a resolution in these words: “*Resolved*, that no slaves be imported into any of the thirteen United Colonies.”—1 *Journ. Cong.*, 307. This, it will be perceived from its date, was anterior to the Declaration of Independence. In 1778, Virginia, one of the most prominent and influential of the Colonies, and emphatically at the head of those who then possessed slaves, passed a law interdicting, under very severe penalties, the importation of slaves into that Commonwealth by land or water. Every slave introduced in violation of this law was, by the very act of importation, declared free.—9 *Hen. Stat.*, 471.

The language of this law is sufficiently comprehensive and precise to include any importation into the Commonwealth from even a sister colony; and, under its provisions, a slave could no more be introduced from Maryland or North Carolina than from Africa, without the act being followed by the same consequences and entailing the same penalties.

In a recent number of De Bow's Review may be found an abstract of the laws of South Carolina on this subject, during a period extending from 1698 to 1803, even more peremptory in their character than the Virginia enactments. See De Bow's Review for September, 1858, pp. 302, 303.

Legislative enactments of a similar character were passed by several of the Colonies prior to the adoption of the Constitution in 1789.

Another important enactment, anterior to the formation of our present Constitution, and characteristic of the men and principles which influenced the operations of our Government and people, must not be passed by unnoticed. In July, 1787, an ordinance was passed by Congress for the government of the Territory of the United States northwest of the river Ohio. Among its provisions we find the following: "Art. 6. There shall be neither slavery nor involuntary servitude in the said territory, otherwise than in the punishment of crimes."

By the terms of the Constitution, adopted in 1789, it was provided that Congress should pass no law prohibiting the importation of slaves *into such of the States of the Union as permitted the same* prior to the year 1808. Such is the universally recognized interpretation of this clause in that instrument; we, therefore, preferring to use such interpretation, have not quoted the precise language of the Constitution.

It will be perceived that it is expressed in very precise, at the same time in very guarded, terms. The word slave is not once employed in the Constitution—though, beyond question, it is implied. Within the period limited, the General Government was not at liberty to set at naught the laws of such of the States as allowed the importation of slaves—of which there still were a few—but it was left perfectly free to interdict that trade in every other particular. When, therefore, any new acquisition of territory was made, any new State admitted into the Union, the constitutional prohibition did not apply. The importation of slaves into Louisiana, when we became the owners of that region, was promptly interdicted by laws.

Inasmuch, also, as the only restraint laid upon the power of Congress, was that of prohibiting the importation of slaves; that body was left perfectly free to adopt any other measures calculated to suppress the African slave-trade. As early, therefore, as March, 1794, five years after the Government had gone into operation, a statute was passed, entitled "an act to prohibit the carrying on the slave-trade from the United States to any foreign place or country." The provisions of this law were very comprehensive and very stringent. It prohibited the building, fitting, equipping, loading, or otherwise preparing any ship or vessel within the limits of the United States for the purpose of carrying on the slave-trade to any foreign country, under the penalty of forfeiture of the vessel and a fine of two thousand dollars, to be incurred by the offender. The owners of foreign vessels clearing out for any part of Africa, or suspected to be intended for the slave-trade, were required to give bond that no one should be taken on board to be transported or sold as a slave in any foreign

port or place whatever; and that if any citizen of the United States should take on board, receive, or transport any persons for the purpose of selling them as slaves, he was subjected to a penalty of two hundred dollars for every person so taken or received on board. Additional legislative enactments, designed more fully to carry out these principles and more effectually to guard against the violation or evasion of them, were passed in the years 1802 and 1803.

In March, 1807, in anticipation of the termination of the constitutional restriction, an act of Congress was passed by which the importation of slaves into the United States, from and after the 1st day of January, 1808, was prohibited under the severest penalties, and authority was conferred upon the President to employ armed vessels to cruise off any part of our coast where violations of the law were apprehended. Still more stringent laws were enacted in 1818 and 1820, in furtherance of the same objects. It is believed that, since the 1st of January, 1808, the law has proved entirely efficacious, and we have yet to learn that a single instance has occurred of the importation of African slaves within the limits of the United States. Another important feature in these laws must not be allowed to pass without notice. In addition to the heavy penalties of forfeiture of the vessels employed in this traffic, and the severe pecuniary fines to which the parties were subjected, the offense was now denounced in our criminal code, stigmatized as piracy, and the offenders subjected to capital punishment. Nor did the American legislation stop even here. In March, 1819, even a further act was passed, authorizing the President to cause any of the armed vessels of the United States to be employed on any of the coasts of the United States or Africa, or elsewhere, and to seize and bring in for adjudication any vessel engaged in the slave-trade in contravention of our laws—on condemnation of any such vessel, the proceeds of the same to be divided between the Government and the captors. The negroes, &c., so found on board the captured vessels, to be delivered up to the agent of the United States, to be safely kept and transported to Africa. It further directed that a bounty of twenty-five dollars for each negro, so taken, should be paid to the captors, and the sum of one hundred thousand dollars was appropriated to carry into execution the provisions of this law. For the sake of brevity we have omitted any particular reference to the act of April, 1818, on the same subject, and carrying out the same principles.

Such is a brief and imperfect, but so far as it goes, an accurate and faithful history of the public proceedings and legislative action of this country on the subject of the African slave-trade. The various enactments of our State and Federal authorities have been rigidly enforced. Prosecutions have been instituted against offenders whenever they have been detected, and punishment has uniformly followed on conviction. It thus appears that, from an early period in our colonial history, it was the policy or interest of the English people and government to force upon us the introduction of slaves. Our control over this, as over every branch of commerce, and indeed of industrial occupation of all sorts, was viewed with the utmost jealousy

and restricted within the narrowest limits. We did all that was in our power to prevent the importation of this class of persons among us; but every act of every colonial legislature, designed to accomplish this object, was summarily annulled by the paramount authority of the British government. The odious traffic was carried on within our own borders, and we were powerless to prohibit or even to regulate it. As soon as we were liberated from these restraints, and were free to pursue our own system of policy, we addressed ourselves heartily to the work. We enacted many and stringent laws, to the utmost extent of the legislative authority, prohibited the introduction of slaves into territories which had been acquired since the adoption of the Constitution; interdicted the very existence of slavery in all the north-western territories then included within our national domain. As circumstances arose, the original laws were followed up by supplementary acts, designed and calculated, so far as human capacity could provide, for the accomplishment of the object which we honestly professed to have in view; and these laws, so far as the nature of our institutions admitted, were carried into execution by the administrative officers of the Government, and enforced by the judicial power of the nation.

Let us now briefly advert to the action of Great Britain in reference to the same subject. As early as 1787, an effort was made by Mr. Wilberforce to procure a resolve by the British Parliament denunciatory of the African slave-trade. He scarcely obtained a hearing. This eminent philanthropist exhibited his case on the principles of humanity and christianity: he was seconded, out of Parliament, by Clarkson and other warm adherents of the cause on the same grounds; by Long and others, on those thought to be more available of interest and policy. These efforts were annually renewed. In 1791, the philanthropic movers were warmly assisted by the powerful eloquence of Burke and Fox; and Pitt, then swaying with almost omnipotent authority—in other respects the voice of Parliament—zealously aided in the contest, but all in vain. It was not until the year 1807, with all the strength which could be brought to bear upon the subject, with all the appeals that could be addressed to the humanity, the morality, the christianity, the policy, the interests of the nation, that Great Britain passed her first law condemnatory of the slave-trade and interdicting its continuance.

An impartial examination of the action of the two nations will thus show, that the United States was the first to set her face against this nefarious traffic; that so far as Congress could act on the subject, under the restrictions which the Constitution itself imposed, we had prohibited all connection with the slave-trade fourteen years before the Parliament of Great Britain had moved on the subject; we had peremptorily prohibited it before it was stopped in any of the colonies of England; we had comprehended it in our criminal code, and imposed the severest penalties of human law upon all over whom we could exercise jurisdiction who participated in it; and we had, as we still do, in spirit as well as in terms, rigidly enforced our laws long before England, with all the appeals to her humanity, her christianity, and her interests, had taken the first step in the same direction.

So much for the antecedents in the history of the two nations. This view of the case has been briefly sketched and rapidly examined—a more minute investigation would only corroborate the statements we have made, and show that the United States first set the example of employing all her energies in the annihilation of the African slave-trade, and that Great Britain has only, at a much later period, followed in the same career. Yet Lord Castlereagh, as recently as the year 1818, in the House of Commons, had the temerity to make it a matter of boast, that England had led the way in the suppression of this odious traffic. How much more faithful to the truth, how much more fairly and honorably did a far higher authority in the House of Lords express himself. Lord Brougham, as Mr. Secretary Cass says, “honorably and truly remarked, that it should be borne in mind, that the United States, at the very earliest period they were enabled to do so by the Federal Union, had adopted the abolition of the slave-trade, and were, in fact, the first to make it piracy for any one of its subjects to carry it on.” Within the last few years an unwonted zeal has been manifested among certain portions of the people of England on this subject; a warmer sympathy manifested towards the negroes themselves, exhibited in their highest fashionable circles by Dutchesses and Peers, which have excited the ridicule and contempt even more than the indignation of Americans. More severe critics have, as is well known, traced, or thought they could distinctly trace, this new born zeal to its origin in important political occurrences, which interfered with the commercial interests of the nation, and that it did not flow from the pure convictions of humanity and christianity by which these new converts professed to have been stimulated. With this mere passing allusion to this topic, as we all know the subject has become one of prominent importance at Exeter Hall, and hostility to the slave-trade, as well as to the very existence of slavery as an institution is proclaimed, and the institution, as well as the traffic, is branded with the harshest epithets which our language—even in that richest exhibition of it, the English Bible—can supply, we let it pass. This aspect of the case might suggest much of comment, and justify retorts as pointed and perhaps more applicable than the assaults which have been made upon us. Such discussions neither gratify our taste nor add strength in our judgment to the argument.

The next point to which we shall advert is one of mutual recrimination. On the one side it is urged that the present flourishing state of this trade, nay, its very existence at this time, is attributable to the fact that it is carried on almost exclusively in American bottoms, in vessels built in the territories of the Union, especially constructed for that purpose, fitted out for that object, owned and navigated by residents of this country, and protected by American papers. That there is much foundation for this charge, or at least a portion of it, cannot be questioned; but in the aggregate, it is believed that, in the detail of the circumstances on which the charges rests, there is somewhat of distortion and much of exaggeration. It is not denied that the cases are numerous in which vessels built in the United States, sometimes constructed especially for this employment, are engaged in the African

slave-trade, are in the habit of hoisting the American flag when encountering a British cruiser, and, when overhauled by her, exhibiting either genuine or simulated American papers. In the progress of these remarks some facts will be presented calculated to mitigate the severity of the judgment which so grave an accusation would seem to involve, if not, to some extent, divert much of the criminality which it implies to other quarters.

On the other hand, it is urged on this side of the Atlantic, and perhaps with equal exaggeration both as to facts and conclusions, that the principal part of the commodities used in the purchase of slaves in Africa are manufactured for that market in England, exported by English merchants in British ships, and disposed of to the traders on the coast to be used by them in the purchase of slaves. If, then, it be said on the one side, that America supplies the vessels which transport slaves from Africa—on the other it is retorted, that England mainly contributes the means, in the shape of her manufactures, by which these wretched beings have become the property of the dealer, and placed under his authority. Such recriminatory accusations have obviously no one good tendency. The argument does not admit of a satisfactory application or answer. If an American ship-builder constructs a vessel to the order either of a Spanish resident of New York, New Orleans, or Havana, or an American merchant being the proprietor of such vessel, disposes of it to a party who will pay him his stipulated price, can he be held more responsible for the employment in which she shall be subsequently engaged, than the individual whose regular business it is to sell guns, revolvers and dirks, is, for the murder of which these articles, in other hands, may become the instrument, or than the English manufacturer or merchant is for the disposition which may be made of the fabrics made or sold by him, which have been employed in the purchase of slaves in Africa? This view of the case is presented with great clearness and force by Mr. Secretary Cass in his communication to Lord Napier, already quoted, “no doubt (says the Secretary) many vessels constructed in the United States have been purchased by foreigners and employed by the traffic. There is a class of American ships famed for their speed, and these are eagerly sought for this purpose. But, as was well remarked by Lord Brougham, the people, thus disposing of their property, are no more answerable for the purposes to which it is devoted than an English ship builder, who sold vessels constructed in his yard, and which were afterwards dispatched to the coast of Africa.” In short, it must be obvious that it is utterly impossible for a finite intellect to approximate even to any precise rule by which the criminality charged is to be apportioned among the various parties comprehended within its terms, or for any legislature to provide against the violation or evasion of its enactments. The guilt cannot be established in any such case, and what is more to be lamented, no remedy can be provided to cure the evil, no precaution to prevent its occurrence. Without diverting further to these general topics, let us address ourselves to some more practical views of the subject, suggested, and to a considerable extent, developed in the interesting document to which reference was made in the early pages of these remarks.

It is agreed, on all hands, that the Webster and Ashburton treaty of 1842 has utterly failed to accomplish the objects contemplated and unquestionably desired by the parties to it. A similar result has followed the various treaty engagements which Great Britain has entered into with several of the European governments and with Brazil, ostensibly designed and calculated to accomplish the same object. The slave-trade continues to exist and to flourish, "notwithstanding" (to use the language of Lord Napier) "the severity of your (our) laws, and the creditable vigilance of your (our) officers in the ports of New Orleans and New York." His lordship would seem, mainly, if not wholly, to attribute the existing evil to "the manner in which the United States flag may be employed for the protection of the traffic."

We cannot but think that a careful perusal of all the papers accompanying the President's message, even portions communicated by his Lordship himself, and others adverted to by Mr. Secretary Cass, might have suggested other causes operating on the case and other reasons explanatory of this seemingly mysterious subject.

The fact is, that, for the first time, there have been exhibited to the public eye some startling and extraordinary secrets of the African slave-trade. These are only, as it were, casually and accidentally developed, but sufficient is shown to indicate a settled and systematic course of procedure in quarters not generally suspected, explaining what before seemed inexplicable, and leaving a strong impression, if not an entire conviction, that only a small part of the evidence has been revealed, and that much more remains undisclosed which would go far to lead us to absolute conclusion; we firmly believe from the proofs thus furnished, that there exist among the archives of the two governments, or at least such as are accessible to them, proofs the most abundant and clear, which, if elicited by persons capable of fully comprehending the subject and properly conducting their investigation, would throw a broad and distinct light over the entire case. If the two governments are, as they profess to be, sincere in their expressed desire to suppress this monstrous evil, we think that, by a thorough investigation of the facts, the motives which lead to it, the means by which it is continued may be fully developed, and, if a cure is to be discovered, that remedy may be applied.

If a comparatively small amount of these proofs is now made public, and that affords us reason to believe that a much larger mass remains undeveloped, let further inquiries be made. If we have yet but faint glimpses of the truth, let the imperfect light which has been cast upon the subject be faithfully employed, and little doubt can exist but that either it will lead us into the full blaze of day, or satisfy us that the mystery is insolvable, and the darkness which shrouds it not susceptible of illumination. We may arrive at one or other conclusion, either that the evil is irremediable by any human agency, or that the disease, being within our control, we may effectively apply the appropriate remedy.

In the document to which reference has been made, we find a pretty distinct expression of the opinions of British functionaries upon the subject. Mr. Crampton, in a letter to Mr. Marcy, (p. 2,) speaks of the

existence of "the traffic which is carried on under the American flag." Lord Napier (p. 3) says it is carried on in vessels "built and fitted out" in an American port, "notoriously for the slave-trade," having "American papers." Mr. Consul Campbell speaks of its being conducted "in vessels fitted out at the port of New Orleans to purchase on the coast of Africa six hundred slaves each."—(p. 4.) Mr. Gabriel (p. 10) says, "that lately, by the abuse of the American flag," the trade "has arrived at as great, if not greater height, than ever in this quarter;" and, finally, Lord Napier (p. 12) employs this language: "The demand for slaves in the Cuban market is supplied by vessels, constructed, purchased, and often possessed and fitted out in the ports of the United States. The number of ships so employed cannot be exactly ascertained, but in the opinion of competent judges it is considerable and increasing." These are certainly grave charges, though as certainly not very precise in their term, coming from high public functionaries, and should not have been made without ample and certain grounds. It is not to be supposed that Mr. Crampton or Lord Napier would, for a moment, wish to be understood as speaking from their own personal knowledge. Their statements were, of course, based upon the official communications made to them, and therefore are to be regarded merely as the reiteration of what is contained in these communications, and drawing no additional weight even from the high individual character of these two gentlemen.

It is not easy to reconcile these accusations, vague and indefinite as they are, with some of the documents accompanying the President's message to the Senate. In page 9, we find a communication from the same, Mr. Commissioner Gabriel, from whom we have above made a citation, addressed to the American Commodore Conover, in October, 1857, dated at Loanda, in which he says:

"I beg to inform you, that *for many years past*, I have never known an instance of any vessel under the American flag, having been searched or detained by the officers of her Majesty's squadron on this coast, except that of a barque sent to New York for adjudication by H. M. S. Sappho, in May last."

This, be it remembered, is from the same Mr. Gabriel, who, in the very same paper, used the language above quoted. In page 69, we find what purports to be "a list of vessels captured during the preceding three months."

"Jupiter, captured by H. M. S. Antelope, with seventy slaves on board, *flag and papers destroyed by her master, &c.*

"Onward, of Boston, captured by H. M. S. Allecto, &c., *her master having destroyed her flag and papers.*

"William Clark, brig of New Orleans, captured by H. M. S. Firefly. Her master confessed that she was engaged in the slave-trade, and *threw her colors and papers overboard*

"Charles of Boston, *without any colors or papers, &c.*

"Abbot Devereux, &c., captured by H. M. S. Teazle, *papers and flag voluntarily destroyed by her master.*

"Also several vessels under the Portuguese and Spanish flags, in addition to the above, who sailed under American colors, proving on examination to have been fraudulently assumed."

Here we have the pregnant fact exhibited, that every one of the vessels designated by name is made to appear as without papers or flag. How this occurs will perhaps more clearly appear hereafter.

We may then be permitted to ask, where is the fact presented that the great bulk of these African slave vessels have been built and fitted out in the United States expressly for this traffic, that they sail under the American flag, are the property of American residents, and are protected by American papers? In every case thus enumerated there would seem to be neither flag nor papers. And as to the Portuguese and Spaniards, we are told they admitted the papers "to have been fraudulently assumed."

As to the unauthorized assumption of the American flag by Spaniards and Portuguese, it is preposterous to make that, under existing laws, a matter of complaint against this country. Both, in times of war and peace, public vessels, private merchantmen, as well as pirates, are in the daily habit of hoisting colors other than those of the nation to which they belong. In many cases, this may honestly be done; at all events, there is now no law, public or municipal, which prohibits it. In regard to fraudulent papers, we know that laws exist to punish forgery; we are yet to hear of any which can prevent the perpetration of the offense. It is a matter of historical record, that, during the war which England waged against the combined continental powers of Europe, spurious American papers were a regular article of traffic on the London change; and any belligerent could purchase, at a reasonable market price, documents to show the neutral character of his vessel and cargo.

Still, we should be pleased to learn from Mr. Gabriel—residing on the spot where these atrocities are committed, representing the British government, and in constant communication with the British squadron—how it has happened, that while, for many years, he has never known an instance of any vessel under the American flag having been searched or detained by the officers of her Majesty's squadron on that coast, with a single exception, he could assert, that lately, by the abuse of the American flag, the trade has arrived at as great, if not greater height, than ever, in that quarter. If no vessel under the American flag had been searched or detained for many years, the inquiry is naturally made, how the assertions made by so many functionaries of the British government are to be verified? If no papers were found on board, or, having been seen, were allowed to be thrown overboard, what evidence can be produced that they were spurious or the use of them fraudulent? Under what pretext are vessels under such circumstances seized as lawful prize by the officers of her Majesty's squadron? Upon what grounds are they libelled as prize in the courts of Admiralty? Upon what evidence can they be condemned? These are questions which it is easier to propound than satisfactorily to answer. In reference to some of them, certain glimpses of light are thrown in the document before us. We have, in the first instance, the account of the conduct and language of Commodore Wise, in command of Her Majesty's steamer *Vesuvius*, (pp. 7, 8.) It appears from the statement of this officer, that the *Vesuvius* was in chase of a vessel off the coast of Africa, "as we neared her, the chase hoisted American colors and hove to: *Commodore Wise boarded her in person*, and having reason to suppose that the vessel was engaged in the trade, inform her com-

mander (who appeared to be Portuguese) that it was his intention to take the vessel, and that *he did not wish to see her papers*—at the same time giving him his choice, whether to be taken under the American flag or otherwise. The captain made some unintelligible expression about being taken as a pirate, and the mate hauled down the colors immediately. The papers were then thrown overboard, and the vessel was seized as a prize, without colors or papers.” “*The officers and crew of the vessel, with the exception of the cook, were landed on the nearest part of the coast, and she was sent to Sierra Leone.*” What subsequently became of this vessel, whether libelled and condemned as a prize, and if so, upon what proofs, we are not informed. Such is the representation made by the Commodore himself, in answer to the inquiries of the American officer who visited him. Can there be a balder case exhibited or even imagined? Here was a vessel sailing on the broad ocean, under the American flag; she is brought to, and boarded from the English cruiser; she is thus boarded by the British Commodore in person—certainly a novel circumstance. Notwithstanding the national colors flying at her mast-head, the “gallant Commodore having reason to suppose the vessel was engaged in the slave-trade,” (what that reason was he never intimated to the Captain nor to the American officer,) “informed the Captain that it was his intention to take the vessel.” By what color of right, or under what pretext, he is entirely silent. “*He did not wish to see her papers!*” He gave the Captain his choice, “whether to be taken under the American flag or otherwise.” How courteous and how exactly in accordance with the duty of a Naval Commander, acting under the peremptory instructions and orders of his government, and limited in his action towards foreign vessels by the well-defined rules of the law of nations. The mate, however, hauled down the flag, the papers were thrown overboard; by whom this last act was performed we are not informed. The Commodore would seem to be the only witness to these transactions on board with the exception of the crew of the supposed slaver. “The vessel was then seized as a prize without colors or papers.” Yet she had both when Commodore Wise boarded her. Her national character was thrown off in the presence of the Commodore himself. The next proceeding, in perfect harmony with what had previously occurred, was to land the officers and crew on the nearest part of the coast, and then send the vessel to Sierra Leone, without flag, without papers, without officers or crew, *with the single exception of the cook.* Now, it will be borne in mind, that there was no one individual from the British cruiser, with the exception of Commodore Wise himself, on board to witness the transaction which he relates, so there was no one to testify to them before the prize court. The prize-master and crew knew nothing of these circumstances, and their testimony, if confined to what they themselves saw, would be restricted to the simple fact that, when they went on board the captured vessel, she had neither colors nor papers. They may have been kept in equal ignorance as to how and where the officers and crew were put ashore on the African coast. We venture little in asserting that if any officer in command in the Navy of the United States had made to his own

government a report of his deportment similar to that which Commodore Wise is thus stated to have given to his American friend, he would either have been promptly dismissed from the service, or handed over to a court-martial and ignominiously cashiered. It is possible there may have been some misapprehension as to what transpired, but assuredly there is ample ground to insist upon a thorough investigation. We are not informed as to the fate of this vessel. It seems she was captured as a prize and sent to Sierra Leone. If prize proceedings were instituted in the Vice Admiralty court at that place, it would gratify our curiosity to have the opportunity of inspecting the libel. If testimony was adduced to justify the seizure, we should be pleased to learn what it was, and from what quarter derived. If condemnation followed, still more desirous are we to know upon what grounds the decree passed. There were no papers which ordinarily furnish the first evidence admissible in prize proceedings; there were neither officers nor crew of the captured vessel, who are next to be submitted to examination; and there was not a single witness who, from his own personal knowledge of the facts, could account for the absence of the primary proof. We are, of course, ignorant of the proceedings had in the British Vice-Admiralty court in this and in other cases; nor are we furnished with sufficient data to form more than a mere conjecture as to the course pursued or the result in which it terminated. Had such a case been presented before an American court, or before an English one, where such men as Lord Stowell or Dr. Lushington administered the law, condemnation might have been decreed for want of a claimant; but had the whole truth been disclosed, the condemnation would have been as *a droit* of the Admiralty, and the conduct of the captors would have received a severe rebuke if not a condign punishment. It can hardly be controverted that the entire proceedings of the British Commander, according to the account given of it, was grossly illegal. The vessel displaying the American flag, he was warranted neither by the law of nations nor by treaty stipulations to put his foot on board her without the assent of her captain. In the absence of such assent, resistance, even to the extent of destruction of life would have been justifiable, according to an express decision of Sir Wm. Scott; at the farthest, without previously well established ground of suspicion of piracy, the whole was inexcusable.

The account which we have thus given of the case of the *Bremen*, is furnished by Lieutenant Pelot to Commander McBlair on the 10th October, 1857, (p. 7.) On the 12th, Commander McBlair ordered another of his officers to have an interview with Commodore Wise on the same subject. His report of what transpired will be found on pages 10 and 73 of the same document. He says:

"I called on Commodore Wise, on board H. M. S. *Vesuvius*, to ascertain clearly the circumstances regarding his seizure of the brig *Bremen*, about this locality on the 10th inst. The statement of Commodore Wise was to this effect—that he, Commodore Wise, boarded the *Bremen* in person, and informed the Captain of her, that he, Commodore Wise, had undoubted information that said *Bremen* was a slaver, and her papers not correct, which was a violation of the American flag she was then under. After some hesitation on the part of the Captain of the *Bremen*, he determined to throw his flag and papers overboard,

which he did with weights attached to them, remarking at the same time, that he would rather be taken by the English than fall into the hands of the Dale, in which latter case he should be hung as a pirate. I then stated to Commodore Wise, that the point in question, and on which Commander McBlair desired to be fully satisfied, was, whether he, Commodore Wise, used language or other means to intimidate the Captain of the Bremen, and influence him in hauling down his colors against his will. To this, Commodore Wise replied, Oh no, sir, no sir; Commodore Wise also stated that there was no doubt whatever, that the papers of the Bremen were fraudulent and prepared for the occasion by any but the proper authorities. That they consisted of several different pieces stuck together by sealing-wax, and that the Captain of the Bremen himself acknowledged his papers were not genuine, and also expressed great surprise that the Captain of her Majesty's Ship *Myrmidon*, who boarded him a short time before, had not perceived that the Bremen's papers were worthless, and immediately taken her as a prize. Finally, I asked Commodore Wise, that in the event of his meeting with an American slaver, under American colors, and bearing genuine papers, (which, of course, would have been obtained when she cleared for other purposes than slaving,) if he would use means to induce the Captain to throw his colors overboard. He replied, 'well I might stretch a point and tell the Captain, the Dale was just near us here.' This reply satisfied me regarding the method which our Majesty's officers on this coast adopt to seize American slavers, as the latter would never choose the other alternative of being taken by an American man-of-war, and sent to the United States and tried for their lives."

It is impossible not to notice some important and significant discrepancies in these two versions of the same transaction. It is unnecessary to point all of them out. But we cannot refrain from remarking, that, while Commodore Wise, in his interview with Lieutenant Pelot, stated that he had told the Captain of the Bremen, who, while he appeared to be a Portuguese, yet was named Smith, that he did not wish to see his papers; he informed Lieutenant Davidson that he both saw and examined the papers, and describes the indications of fraud which they exhibited. To the one he says, "the Captain made some unintelligible expression about being taken as a pirate." To the other, that the Captain remarked, "that he would rather be taken by the English than fall into the hands of the Dale, in which latter case he would be hung as a pirate." In this last report, also, we find some details of a conversation between Commodore Wise and the Captain of the Bremen, indicating anything but "unintelligible expressions;" and, finally, so far as relates to this aspect of the case, in response to a direct interrogatory, Commodore Wise says, in order to induce the Captain of an American slaver to throw his flag overboard, "well I might stretch a point and tell the Captain, the Dale was just near us here." We presume that this is only an example or instance in which a point would be stretched to accomplish the object, and that, when occasion required, it would be done in other ways. Certainly Captain Conover was perfectly justified in his remark, on receiving these reports, that "the action of Commodore Wise, in this seizure, appears to me only an instance of the method generally adopted by H. B. M. cruisers on this coast to secure as prizes, American slavers; and may serve to explain, what before seemed very strange, that so many vessels should be reported by the British commanders as having been captured without flag or papers. I accordingly feel it to be my duty, under these circumstances, to enter my protest against the action of

Commodore Wise in this capture, which I did in a letter addressed to the Commander-in-chief of her Majesty's squadron on this coast," &c. This protest is at once explicit, manly, and American: p. 10.

Notwithstanding these discrepancies to which we have briefly adverted, the two versions correspond in the more important facts. Both represent Commodore Wise as having boarded the *Bremen* in person, not through the intervention of any subordinate. They concur in stating that, when thus boarded, the *Bremen* had the American flag flying, and was provided with papers; that the flag was hauled down, and, with the papers, thrown overboard in the presence of the British Commander. Both substantially concur in the statement that her Captain preferred being a prize to the English rather than to an American cruiser; and the one asserts what may be inferred from the other, that the option was offered to him.

Commander Hunt, of H. B. M. steamer *Alecto*, also occupies a prominent position in this history. On pages 36 and 37, will be found his account of the capture of the *Louis McLane*. On approaching her, she hoisted the American flag. Her Captain made no objection to exhibiting his papers, when boarded by Commander Hunt, accompanied by Lieutenant Thompson. After making such examination, he returned to his own vessel. Shortly after, he, himself, again went on board, but it does not appear that on this second visit he was accompanied by any one, and now discovered that the Captain was deceiving him with his statements and papers. He then took the suspected vessel in tow, and the Captain took the opportunity to sink his colors and papers, and afterwards "deliver himself up as having no right to the protection of the flag of any State or nation." She was dispatched with a Lieutenant and prize crew on board, to Sierra Leone. On page 38 is another communication from Commander Hunt, of the capture of the *Clara B. Williams*:

"On searching her, I found her fully equipped for the slave-trade; and on ascertaining this, the Captain immediately destroyed his colors and papers, and I, therefore, seized her as a lawful prize."

The crew of this vessel was also landed and she sent to Sierra Leone. Page 76, another characteristic relation is given by this same officer of his capture of the *Williams*:

"We boarded this vessel, which at the time was under American colors, and demanded the necessary papers. The master refused to comply with this demand. Commander Hunt then took the vessel in tow of the *Alecto*, and made known to her master his intention to proceed south, and join this fleet (the *Oale*) when his case would be disposed of by you, (Commander McLair). He proceeded thus about ten hours, when, at sunset, the *Williams* hauled down her colors, and an officer from the *Alecto*, again boarding her, found her without colors or papers. Commodore Hunt then took charge of her as a vessel engaged in the slave trade, and abusing the American flag, without papers. On raising her hatches, her slave deck was found ready laid, and every preparation made for the immediate shipping of slaves. She was sent to Sierra Leone, to be tried before a British Admiralty court."

Of course there were no inducements held out to the master of this vessel to denationalize herself. When first boarded, she had the American flag flying, and refused to submit her papers to the exami-

nation of the British Commander. She was then taken in tow by the *Alecto*, and her master was informed that she was to be carried down to the Dale, handed over to Commander McBlair, and to be disposed of by him. She was thus held by the *Alecto* in durance for ten hours, when her Captain threw overboard flag and papers; and the vessel, instead of being delivered over to the American man-of-war, was sent to Sierra Leone, to be tried by a British Admiralty court.

We are at a loss to reconcile this narrative with our preconceived ideas of what was the imperative duty of the British Commander. His boarding a vessel sailing under the American flag; and on being refused permission to inspect her papers, taking her in tow for the avowed purpose of handing her over to the Dale; retaining control over her for ten hours, then suffering her papers to disappear, and her colors to be destroyed—each and every of these acts was clearly illegal. But worse than all, was that when suspicion was thus confirmed, and her hatches being opened, evidence of her being a slaver was exhibited; the guilty vessel and her crew, instead of being handed over to the lawful authorities of the nation whose laws she had violated, is sent as a prize to Sierra Leone. May we not be excused for inquiry, upon what pretence of right was this vessel first taken possession of by an English cruiser? What law was she suspected of having infringed? Why, when such suspicion as was entertained was confirmed, was she sent to Sierra Leone, to be tried before a court who could not rightfully entertain jurisdiction over her?

While penning these pages, another case has met our eyes in which Commander Hunt and his ship, the *Alecto*, again appear in a very questionable character. The account to which we now refer has not appeared in an official shape, but the character of the paper from which we extract it, and the whole circumstances of the case as related, carry with them strong evidence of faithfulness in the narration:

From the Boston Courier of July 23d, and New York Herald of July 25th.

"The brig *Caroline*, of Boston, Captain Bradford Gibbs, on her passage from Boston to Matacong on the west coast of Africa, was seized on the 8th day of May last, by the British steamship *Alecto* off the Rio Nuner, and from thence taken and anchored off the port of Sierra Leone where she was liberated. Captain Gibbs, in his report of the case to the Secretary of State, states that the brig *Caroline* left Boston on the 4th of April last, with a full cargo of such articles of merchandize as are usually taken for the purpose of legitimate commerce on the west coast of Africa, and that, on the 8th day of May, the brig was hailed from the steamer *Alecto*, and ordered to heave to. The *Caroline* had the United States flag flying from her mainmast head at the time. The brig was boarded by an officer of the *Alecto*, who examined the papers of the *Caroline*, and also inspected her hold. Word was then sent to the steamer, that the brig's papers appeared to be all right, but that she had a suspicious cargo. The Commander of the *Alecto* then came on board of the brig, and inspected her papers, and afterwards ordered Captain Gibbs to go on board the steamer with his papers. On board the steamer, the Commander asserted that the brig's papers were false, and told the Captain that he had better let them swim. Captain Gibbs was then returned to his own vessel, the main hatches of which were broken open by order of one of the steamer's officers without the consent of Captain Gibbs; a part of the cargo was taken out and examined, and afterwards replaced, and the hatches put on again. Towards evening a prize officer and crew from the *Alecto* were put on board the *Caroline* with directions to

follow the steamer. The next day, they arrived off Sierra Leone; and on the following morning, two officers of the *Alecto* came on board the brig, one of whom told Captain Gibbs that he had come on board for the last time to give him a chance to let that ensign swim—pointing to the American ensign. Captain Gibbs declined to adopt his advice. The officer then again examined the Caroline's papers, which they sealed up and gave them to Captain Gibbs, forbidding him to open them till they should be given to the American Consul. About nine o'clock in the evening, the brig was brought to an anchor off Cape Sierra Leone. The next morning, the Commander of the *Alecto* came on board the brig, and stated that he had been advised to give her up, and offered to tow her to Sierra Leone or to Matabele. Captain Gibbs said, that he had no request to make, and the Commander then left the brig. Captain Gibbs at once proceeded to Freetown, and caused a protest to be noted against the proceedings to which he had been subjected, and also served the Commander of the *Alecto* with a notification that he would be held responsible for his conduct."

To return to the first cited document. On page 69 will be found a curious paper called "a list of vessels captured during the preceding three months." It is without date or any authentication, but would seem to have been furnished to Commander McBlair by the commanding officer of H. B. M. S. *Antelope*. We have already quoted this paper, but as it is brief, and open to comment, we again advert to it. The substance of this paper is as follows:

"*Jupita*, captured by H. M. S. *Antelope*, with seventy slaves on board, *flag and papers destroyed by her master* in July last.

"*Onward*, of Boston, captured by H. M. S. *Alecto*, in September; *her master having destroyed her flag and papers*.

"*William Clarke*, brig of New Orleans, captured by H. M. S. *Firefly*. Her master confessed that she was engaged in the slave-trade, and *threw her colors and papers overboard*.

"*Charles*, of Boston, *without any colors or papers*.

"*Abbot Devereux*, schooner, *papers and flag voluntarily destroyed by her master*.

"Also several vessels under the Portuguese and Spanish flags in addition to the above, who sailed under American colors, proving, on examination, to have been fraudulently assumed."

The case of the *Onward*, one of the above enumerated vessels, is referred to in two other parts of the document under consideration. In a communication from Mr. Gabriel, a British official, dated Louisa, October 13, 1857, (p. 9,) it is said she "was recently *detained* by her Majesty's ship *Alecto*, without any papers of nationality whatever on board." In Lord Napier's communication to Mr. Secretary Cass, under date of December 24th, 1857, it is thus spoken of: (p. 13.)

"The brigantine *Onward*, of Boston, was more than once remarked and suspected under American colors. When at length searched by her Majesty's ship *Alecto*, the ensign was voluntarily struck, and all pretensions to American nationality renounced."

We cannot but be struck with the difference of the statements thus given from three British functionaries of the same transaction. Whether the flag and papers had been destroyed before the intervention of the British officers before the capture was made, as is obviously intimated in the two statements first above given, or, after the search, as stated by Lord Napier, does not distinctly appear; yet, admitting to the fullest extent, any or all of these various and not easily reconcilable representations, the vessel, cargo, officers, crew, owners, and other

participants in the transaction, had not subjected themselves to capture by a British cruiser, had not made themselves amenable to a British court, had not incurred the penalty of the forfeiture of the property to the British government or her English captors, but had, by the violation of American law, incurred all these responsibilities to their own country. Yet, under these circumstances, the captain is permitted to divest himself, his crew, and cargo of their nationality, to escape personally, with impunity, and to dispose of every evidence which could affect his owners, and the other participators in the transaction.

In Lord Napier's communication to Mr. Secretary Cass, already cited, of December 24, 1857, there are some sentences which deserve notice. Page 13: "The Adams Gray, which carried American papers, thrown overboard before the seizure." Probably, as in some of the cases already referred to, after the boarding, the Captain was "allowed his option whether to be taken under the American flag or otherwise." He chose to denationalize himself; threw his papers overboard and submitted to be captured, as without flag or papers. If the papers were thrown over before the British officer was on board, what evidence existed of that fact or of the character of the papers? The *Jupita*, the American papers and ensign, thrown overboard before the seizure. The *Eliza Jane*, captured without papers or colors. The *Onward*, already noticed. The *William Clark*: when her Majesty's officers finally decided to open the hatches, the flag and documents were thrown into the sea, and *she became a lawful prize*. We would respectfully ask of his Lordship to whom did she become lawful prize, and by what law?

It is presumed that it would be altogether supererogatory to adduce more evidence to demonstrate the course of action pursued by the British cruisers delegated to suppress the slave-trade on the coast of Africa. The testimony which has been exhibited, is derived almost exclusively from themselves, or those who rely upon their representations.

What, then, is the summary of the entire story? The commanders of these vessels overhaul every vessel which they encounter, no matter under what flag she sails. They, in person, board, demand to inspect the papers—no one, even of their own subordinates, is present to witness the proceedings. These papers are denounced as fraudulent; sometimes without being examined, the flag affords no protection. The master is, if guilty, alarmed by the information that the *Dale* is near at hand, and that he will be delivered over to the custody and disposition of an American man-of-war. If he yields to this menace, he is allowed to denationalize himself, and throw into the sea his national colors and papers. The vessel is then seized as a lawful prize, without flag or papers; her officers and crew are landed on the neighboring coasts, released from all personal responsibility, subjected to no punishment for their criminal violation of the laws of the United States, and the captured property sent to Sierra Leone to be tried before a British court of Admiralty; and, as we presume, condemned as a prize for the benefit of the captors. Among the papers transmitted by Lord Napier to Mr.

Secretary Cass, (p. 14,) is a copy of a sentence of a Portuguese court in the case of the barque *Velha Aunto*, alias the *Splendid*. It would seem more germane to the matter had his Lordship communicated records of the British courts of Vice-Admiralty, where prize proceedings were instituted against those vessels which had been seized as without colors or papers, when both had been thrown overboard at the instance and with the connivance of the captor. Our curiosity would be gratified by a perusal of these prize proceedings. We are not aware that there is any provision in the law of nations which prohibits the hoisting a false flag, much less which subjects the vessel on board which it is done to condemnation as lawful prize. It is a thing of usual occurrence among ships of all characters and of all nations. British national vessels, American, French, and indeed all, without distinction, both in time of war and of peace, are in the habit, whenever occasion requires, of exhibiting colors not belonging to their own country; merchantmen of all descriptions do the same, and we are yet to learn where it is inhibited or subjected to punishment in any public or municipal law.

An American vessel, or one claiming to be such, found without the papers which our municipal laws require, is guilty of a violation of those laws, and such violation subjects the offender to punishment. We are not, however, aware of any such provision in the code of public law. By certain treaties, under peculiar circumstances, ships of different nations are required to be provided with documents to show their national character; but even under such circumstances, the absence of such papers amounts, as between the parties to such conventions, to nothing more than a want of proof of nationality. We are yet to learn how the mere fact of being found without papers furnishes sufficient ground for the exercise of prize jurisdiction by a British court of Admiralty. Nor is the case essentially changed if spurious papers are found on board. The forgery of papers may be, and usually is, an offense against the municipal laws of the country to which the vessel or party belongs, or within whose jurisdiction the act has been committed, punishable by her own courts; but England has long since recognized and acted upon the doctrine, that her judicial tribunals cannot and will not administer or enforce the penal laws of any other country.

By one of the provisions of our revenue code, a pecuniary penalty is imposed on every American vessel not provided with certain prescribed documents. The want of such papers, or the possession of such as being spurious, purport to be what the law requires, is consequently a violation of such law. The offense, however, is cognizable exclusively in the courts of the United States. No foreign tribunal can rightfully exercise jurisdiction in the case; but to make it the ground of condemnation as prize by an English court of Admiralty is preposterous and absurd.

If, then, we were surprised to find it so repeatedly advanced by the naval officers of Great Britain, that a ship, seized without colors or papers, became thereby a lawful prize, we were utterly astonished to perceive that so able a diplomatist as Lord Napier adopted the same

doctrine, and asserted in page 13, in the case of the William Clark, that "the flag and documents were thrown into the sea, and she became a lawful prize." In page 12, his Lordship uses other language, which, while it seems somewhat at variance with what has just been quoted, is, in our humble judgment, particularly when we consider the circumstances of the various cases which have occurred, scarcely less objectionable. On page 12, we find this passage—

"When the vessel is overtaken with negroes on board, or in such a state of preparation that no doubt can exist of her immediate intention, the American ensign and papers are made away with. The origin and ownership are then deduced from the nationality of the master, supercargo and crew, from documentary evidence discovered on board, or from information elicited on trial."

If we correctly apprehend the language of his Lordship in the passage above quoted from page 13, he gives his sanction to the doctrine that the simple fact of a vessel being found without flag or papers constitutes her *per se* a lawful prize—a doctrine from which we wholly dissent. If such be the doctrine of the British prize courts, in a period of profound and general peace—of which, however, we have as yet seen no evidence—the records of those courts, if produced, would exhibit the fact. It is, however, difficult to reconcile this view of the law with the statement made (by his Lordship himself.) The American ensign and papers having been made away with, "the origin and ownership are then deduced from the nationality of the master, supercargo, and crew, from documentary evidence discovered on board or from information elicited on trial."

This representation obviously implies a judicial proceeding. In the first place, if the entire truth were to be laid before the court, it would appear that the flag and papers had thus been "made away with," under the eye, with the full knowledge and entire acquiescence of the captor himself, who thus has incurred the penalties prescribed for spoliation of papers; sometimes under the menace of being handed over to an American cruiser, and thus to avoid the punishment prescribed by the laws of the country which he has insulted and outraged. Is not this a palpable case of compromising a felony? Can it be distinguished from the case of a member of the detective police, appointed to ferret out the offender as well as the property which has been stolen, and hand over both to the appropriate tribunal, who should accept and pocket the stolen goods, and suffer the criminal to escape unwhipped of justice?

Again, we are disposed to inquire to what purpose is an inquiry instituted, as to the origin and ownership of property, when the simple fact of being denuded of flag and papers constitutes the vessel a lawful prize? It is hoped, that, while such an investigation can have no influence on the rights of the captors, it is not instituted merely for the purpose of gratifying a prurient curiosity, or still worse, to discover some ground upon which to heap additional odium upon the Government and people of the United States, by charging them with being the real culprits in the case. Again, how is the origin and ownership, if at all material in the question of prize or no prize, to be deduced from the nationality of the master, super-

cargo, and crew, when one of the first acts of the captor is to get rid of any evidence to be derived from this source by landing the whole of them on the coast of Africa? From whom can information be elicited on trial? The papers are destroyed, the crew put on shore, no one sent in with the prize who knows anything about her.

Whatever explanation may be given of these apparent irregularities, whatever attempt may be made to reconcile these inconsistencies, we hazard little in asserting, that the whole conduct of the British commanders, as given by themselves, is a deviation from the existing usage of the English and American navies, is in clear violation of the laws of nations, of the best established rules of the British courts of Admiralty, and in direct opposition to the positive instructions from their own government.

The Commodore in person boards the suspected vessel. This is a duty ordinarily committed to a Lieutenant or other subaltern officer. He is unaccompanied by a single witness. The evidence of the captor as to what transpired on board is inadmissible in prize proceedings, and consequently there can be no testimony to exhibit to the court to account for the circumstances under which the flag and papers had disappeared, or, indeed, that they had been disposed of at all. Neither the prize master, nor the prize crew knew anything of these matters, and, of course, could shed no light upon the transaction. They probably knew as little of the time, place, or manner in which the officers and crew were disposed of. They could, if admitted as witnesses before the prize court, testify only to the simple fact that, when they went on board, neither colors nor papers were to be found. Experience has long since demonstrated that no positive falsehood conveys a more unfaithful representation of the truth, than a narrative, which, while it gives us an account of some fact or facts which really occurred, yet, either from design or ignorance, omits every one which gives character or color to the story. Is it a harsh suspicion that Commodore Wise took the precautions which he did with an eye to these results? That he boarded in person that no one might be able to contradict or explain his statements? Where is the evidence that the *Bremen* carried spurious papers? Although the Commander of the *Myrmidon* had examined them without detecting anything irregular in them, Commodore Wise, instead of bringing them in to verify his accusation, allows them to be thrown into the ocean, and rests his charge upon his own uncorroborated statement.

To any one versed in the admirable course of practice which has been adopted in the prize tribunals of every civilized nation, it would be unnecessary to point out the uniform and systematic deviations from that code, which has characterized the entire conduct of the British naval commanders on the coast of Africa.

In such an investigation as the present, not designed exclusively for professional men, it may be advantageous to allude briefly to the principles which govern these tribunals. For this purpose we shall quote a few sentences from the writings of the late distinguished jurist, Mr. Wheaton, whose reputation as a publicist stands high in Great Britain and on the European continent, as well as in his own country. The

paper from which these extracts are taken is, as he himself informs us, "principally copied from the rules of the British courts, which, as far as cases have arisen to which they could apply, have been recognized and enforced by the Supreme Court of the United States, and, for the most part, are conformable with the prize practice of France and other European countries." "As soon as a vessel, or other thing captured as prize, arrives in our ports, notice should be given thereof by the captors to the District Judge or Commissioners appointed by him, that the examination of the captured crew who are brought in may be regularly taken in writing upon oath, in answer to the standing interrogatories." "It is also the duty of the prize master to deliver up to the District Judge all the papers and documents found on board, and, at the same time, to make an affidavit that they are delivered up as taken, without fraud, addition, subduction or embezzlement." "In general, the master and principal officers and some of the crew of the captured vessel should be brought in for examination. This is a settled rule of the prize court." "The examination must be confined to to persons on board at the time of the capture, unless the special permission of the court is obtained for the examination of others." "It is upon the ship's papers and depositions thus taken and transmitted that the cause is, in the first instance, to be heard and tried. This is not a mere matter of practice and form; it is of the very essence of the admiralty law." Such is a brief outline of the general code of admiralty practice in cases of prize, acknowledged by the courts of Great Britain and the United States.

By the VIII. article of the treaty of August, 1842, the two governments, whilst agreeing to maintain on the coast of Africa an adequate naval force to enforce, *separately and respectively*, the laws, rights and obligations of each of the two countries for the suppression of the slave-trade, also "stipulated to give such orders to the officers commanding their respective forces, as shall enable them most effectually to act in concert and coöperation, upon mutual consultation as exigencies may arise, for the attainment of the true object of this article; copies of all such orders to be communicated by each government to the other respectively."

Nothing is further from our design or wish than to be understood as casting any imputation upon the government of Great Britain as having omitted or neglected faithfully to perform to the full, the obligation assumed by her in this article. We have yet to see the first evidence of any such dereliction of duty. But with the evidence we have already adduced, we feel authorized and bound to charge home upon the British Commanders on the coast of Africa, a systematic violation of the provisions of this treaty, both as to its spirit and its precise terms.

The obligation is not so imperative upon us to show that the conduct of these officers has been equally in open disregard of and contempt for the orders of their own government. As the fact, however, may become important in any future attempt to unite the efforts of the two nations in their endeavors to attain an object which both profess to have at heart, and can at present at least have a further

effect in directing public censure and indignation to the right quarter, we proceed to substantiate this article of our indictment. We have before us a copy of the instructions prescribed by her Britannic Majesty to her officers, in reference to prizes and prisoners, chap. 8, p. 82. It will be observed how completely they are in accordance with what we have represented as the prize law recognized by that government. We quote the following:

1.

"When any ship or vessel belonging to an enemy shall be captured, or any ship or vessel belonging to a neutral power shall be detained on suspicion of having the property of an enemy on board, the hatches are to be securely fastened and sealed, and her lading and furniture, and in general everything on board, are to be carefully secured from embezzlement; and the officer having charge of such ship or vessel, shall prevent anything being taken out of her, until she shall have been tried and sentence shall have been passed on her in a Court of Admiralty or Vice-Admiralty.

2.

"The commanding officer of her Majesty's ship shall cause the principal officers of any vessel he may detain, and such other persons of the crew as he shall see fit to be examined as witnesses in the Court of Admiralty or Vice Admiralty, to prove to whom the vessel and cargo belonged, and he shall send to the said court all passports, custom-house clearances, log books, and all other ship's papers, which shall be found on board, without suffering any of them to be on any pretence secreted or withheld."

True it is, that the exact language does not enumerate the throwing overboard of papers as one of the acts prohibited. But, unquestionably, the allowance to the captain of a vessel detained, and to whom the intention to seize as prize was communicated, to throw his flag and papers overboard, was as gross a violation of orders as the whole proceeding was of the treaty above quoted.

Such then are the stipulations of the treaty between the two powers, such the instructions given by the British Government, such the provisions of the general law as to cases of prize. After what has been said in the preceding pages, it would be superfluous to adduce further proof to establish the truth of our accusation. As we remarked in an early part of these pages, it is matter of regret that the Secretary of the Navy, in response to the call of the Senate, confined his communication to documents all bearing a recent date. We have learned from high authority, such as to commend our entire confidence, that the instances we have presented of the conduct of Commodore Wise and Commander Hunt are not insulated cases, but, as Captain Conover observes, indications of a system, and one which has been pursued for a series of years.

Upon the same evidence, although not so direct and positive, but as strong as circumstantial evidence can well be, we now proceed to arraign at the bar of public opinion, the Judges and Officers of the Vice-Admiralty Court at Sierra Leone, and we are warranted in including that at St. Helena, in the charge, as accomplices, in the same guilty transactions. It cannot be believed that the several British commanders on the coast would persist, during a long period of time, in capturing vessel after vessel, under the circumstances which have been detailed, and sending them to Sierra Leone as lawful prize, with-

out flag, papers or crew, unless the action of the Vice-Admiralty court at that place sanctioned and encouraged such proceedings. Should this countenance and encouragement have been afforded by the court, it would, as has been shown, be not only a departure from, but in positive violation of the principles of public law, which we have cited of the 8th article of the treaty of 1842, and of the instructions from the British government to their cruisers. The uniform silence which has prevailed on this branch of the subject, the omission to produce one solitary record of a condemnation by that court, certainly heightens the suspicions which other facts had awakened. The commanders in their various statements have disclosed facts which establish an unlawful collusion between themselves and the captains of the alleged slavers, by which the latter escape all personal punishment, and the captured property is saved from the operation of the laws of the United States, which alone had been violated, and to which alone it was rightfully amenable, and is made to enure to the benefit of the scarcely less culpable captors. It would not perhaps be unjust were we to surmise, that, this guilty collusion, so systematic and so persistent, indicates at least the probability that a similar understanding between these parties existed prior to the capture, and provided in advance for that event. We are informed from high authority, that so profitable is the business thus carried on, that, in the brief period of two years, the enormous sum of £70,000 was distributed as prize money among the officers and crew of these cruisers. Where such enormous profits are derived from transactions, which, in their mildest aspect, are obviously illegal and criminal, we cannot wonder, if, not only one point, but many are stretched for the purpose of realizing such emoluments. As, also, it seems impossible to suppose that such a system would be carried on, without the aid and instrumentality of the courts of Admiralty, sanctioning the open and direct violation of law—and men do not usually “file their hands for others use,” without an equivalent compensation or share in the plunder—the prize court at Sierra Leone must rest, without some explanation not yet communicated to the public, under the grave suspicion of being deeply implicated in these nefarious transactions. We are aware that when a vessel is libelled in the prize court, any individual interested in the property may make himself a party to the proceeding, by filing his claim and asking restitution; but we also know, that when the prosecution is in a British prize court, for being concerned in the slave-trade, no claimant is allowed a hearing who is a citizen or subject of a country by whose laws that trade is interdicted. No American, Spaniard, or Portuguese would therefore, under such circumstances, present himself as a claimant in any such case. Nor after the officers and crew have been landed on a distant part of the coast, and the ship's papers have disappeared, would it be practicable for even a party, wholly free from any imputation of being a participator in a guilty transaction, to know when and where to assert his rights?

The facts which have been disclosed furnish, at least, a plausible solution to much of the mystery connected with this subject. They explain how a trade, denounced by the whole Christian world, should

continue to exist, and even flourish, notwithstanding the exertions made to put it down. They explain how it happens that so few captures are made by the American cruisers off the African coast; how, notwithstanding the number seized by the British squadron, so many more escape with impunity; and how it happens that, while so many of those which are captured are denounced as American, nearly every one is found without a flag or papers to indicate her nationality or ownership; and, finally, how so few of the guilty perpetrators of the crime are brought to punishment. It might be inferred *a priori*, that, so long as three-fourths of the vessels concerned in this traffic escape, either by their own adroitness and skill, or by collusion with the parties employed to detect and bring them to punishment; so long as the trade continues to yield such profits, that, if one of three escape capture the owners are amply remunerated; so long the trade will continue. So long as the offense is held by our laws to be more heinous, and visited with far more severe consequences than by Great Britain, it is to be expected that the criminals will prefer the simple loss of property without personal punishment, which is all they apprehend if captured by an English cruiser, to the forfeiture of both property and life under the laws of the United States. That so long as under British law the entire profit of the capture enures to the benefit and emolument of the captor. That they will consent to denationalize themselves by the destruction of the evidences of nationality, and submit to the consequences of British capture, rather than allow themselves to fall into the hands of an American man-of-war; and British cruisers make such a compromise.

In reference to diseases of all descriptions, the knowledge of the causes which engender them, and which continue and exacerbate them, is the first and surest step in effecting a cure. Let us begin by ascertaining if practicable the real causes of the acknowledged evil. If that can be traced to its sources, its root be exposed, then let the appropriate remedy be applied; and if none be available, then, but not till then, let the disease be deemed hopeless and incurable.

If, in reference to the difficulties which have recently occurred between the United States and Great Britain, and which for a time threatened to disturb the harmony existing between the two nations—a calamity most seriously to be deprecated, not only by the immediate parties, but by every friend of liberty, civilization, and christianity—a measure or system of measures can be devised and practically adopted which shall preclude the recurrence of such causes of disturbance, a most important and a happy result will ensue. There are difficulties, and we apprehend insurmountable ones, in the way of attaining this desirable object through the ordinary channels of diplomacy. The routine of diplomatic intercourse creates impediments which cannot readily be overcome, and would certainly and necessarily lead to delays which it is desirable to avoid, and, perhaps, give rise to new questions which may still more embarrass and complicate the subject. Gentlemen, holding the high position of ministers at a foreign court,

have not the time or the means for instituting and prosecuting the various and minute inquiries and investigations which such a subject as we are now considering demands. It may be suggested that the business could, with a prospect of more satisfactory results, be confided to a commission, consisting of one or two competent persons, to be appointed by each government, invested with ample powers to elicit from the public archives and other authentic sources all the information required, and finally to submit, either jointly or severally, such propositions as, if adopted, may in their judgment best conduce to the settlement of the question in a manner most likely to accomplish the object, and the least likely to offend national honor and national dignity.

We have been surprised to find in some of the recent debates in the British Parliament, and specifically mentioned in a pamphlet on the subject, emanating from the pen of a barrister of Nova Scotia, (Mr. Whitman,) that "the very occurrences of which Mr. Cass complains as outrageous proceedings, have happened as the natural result of his own request and directions."

To substantiate this extraordinary assertion, a quotation is made from a communication addressed by the American Secretary to the British Minister, under date of the 10th of April, 1858. Even did the paper of General Cass fairly admit of the construction which has been given to it, which, however, we distinctly repudiate, it would seem that Mr. Whitman has fallen into a serious anachronism in attributing to a document, dated at Washington, on the 10th of April, the transfer of British cruisers from the coast of Africa to the Gulf of Mexico, when in point of fact these vessels were in the Gulf at and before the date of that despatch, and the conduct of one of them is particularly referred to in that very paper. Had the letter of General Cass, which is assigned as the cause of occurrences anterior to, concurrent with, and immediately subsequent to its date, been written months or even years before, it would be difficult to comprehend how the proceedings complained of "have happened to be the natural result of his own request and direction." The extract from the letter of the 10th of April, as quoted by Mr. Whitman, is as follows, viz:

"Experience has come to test the measures proposed, and they have been found inadequate to the extinction of the evil; so much so, that, in the opinion of your government, its present activity demands increased exertions on the part of the United States with a view to accomplish the object. These exertions, it is suggested, should be directed to the coast of Africa, in order to render the blockade more effectual, and especially to examine and deal with vessels bearing the American flag and suspected of being engaged in this trade. This system of a joint blockade has been pursued for some years, and the benefit it has produced bears no reasonable proportion, I regret to say, to the expenditure of life and treasure it has cost. But this failure need not discourage the anxious hopes of Christendom.

"There is another way of proceeding without the dangers, and doubts, and difficulties, and inefficiency which beset a blockade, and which is sure to succeed if adopted and persevered in, and that is to close the slave-mart of the world, or rather of the Island of Cuba, which is now almost the only region where the slave-dealer can find a market. If these unfortunate victims could not be sold, they would not be bought. To shut the ports of Cuba to their entrance is to shut the ports of Africa to their departure; and to effect this nothing

would seem to be wanting but the cordial coöperation of the Spanish Government. The conventional arrangements which exist between Great Britain, and France, and Spain, for their mutual coöperation in the suppression of the slave-trade, are very imperfectly known to me; but it is understood that Spain has entered into engagements with Great Britain, if not with France also, that she will use her best exertions to prevent the importation of slaves into her dominions. This pledge, if given, has certainly not been redeemed, though it is difficult to believe that the Spanish government would resist or neglect the firm remonstrance of these two great powers, or even of Great Britain alone, if she, alone, has the right by treaty stipulations to demand of Spain the faithful performance of duties which she has voluntarily assumed. Upon the course of the Spanish government far more depends than upon the most rigorous blockade of the African coast."

With all the italics, small capitals, and large capitals with which Mr. Whitman has marked this passage, it has not been within our capacity to see how it, even remotely, bears upon the position or fortifies the conclusion for which it was cited. The writer remarks:

"It is in accordance with such views on the part of Mr. Cass, that the British government turned its attention for the suppression of the slave-trade from Africa to Cuba, deeming that the right of visit, as it had been exercised on the one coast, would be unobjectionable on the other."

Similar language is reported to have been uttered by Lord Mahnesbury in a recent debate in the House of Lords.

In the view we have taken, as well of the paper itself as of the circumstances under which it was written, the whole comment is erroneous. It has been shown that, from the dates of the occurrences, it was utterly impossible that the action of the British government, in transferring any part of their blockading squadron from the coast of Africa to that of Cuba, could have been adopted in accordance with the suggestion of General Cass, for the obvious reason that the transfer preceded in point of time the suggestions in which they are thought to have originated.

It also appears from a report of a recent debate in the House of Commons, that Lord Palmerston, who retired from the Premier ship in February, 1858, asserted that the orders for transferring the British blockading cruisers from the coast of Africa to that of Cuba were issued under his administration, and that this was done "in deference to the expressed wishes of Parliament; and in consequence of the repeated deputations which came to members of the late government urging that course."

In the next place, the idea that "the right of visit as it had been exercised on the one coast, would be unobjectionable on the other," is equally unfounded. The right of visit and search, as occasionally exercised by British cruisers on the coast of Africa, had been the incessant ground of complaint and remonstrance by the Government of the United States. Of this, the whole document to which we have referred, and especially the letter of General Cass thus cited, exhibits abundant evidence. As the claim of right, under which the practice had to some extent been exercised, as has been already shown, was the subject of remonstrance and complaints, how can it be supposed that, when again exercised in our own immediate neighborhood, on our own coast, it would have been deemed "unobjectionable," it is not

within our limited capacity to conceive. But the gravest part of the assertion remains to be examined. How the "outrages" complained of are to be considered, despite the anachronism, as the natural result of "the request and directions of Mr. Cass," is not explained, and to our understanding is not susceptible of explanation.

The language of the American Secretary appears to us perfectly intelligible and plain. Having replied to the suggestions of the British Minister as to the means most advisable to be adopted for the extinction of the African slave-trade, and having remarked that the experience of years had demonstrated that the provisions of the treaty of 1842, by which the two nations had stipulated for a naval squadron to act on the coast of Africa, had involved an expenditure of money and of life wholly incommensurate with the results actually accomplished, General Cass suggests, as a means far more likely to accomplish the desired object, the closing of Cuba to the trade. To effectuate this, he observes, "nothing would seem to be wanting but the cordial coöperation of the Spanish government." Alluding then to the conventional arrangement already subsisting between Great Britain and Spain, and the right of the former power to enforce their performance, he concludes with saying, "upon the course of the Spanish government far more depends than upon the most rigorous blockade of the African coast."

By what train of reasoning these suggestions can be construed as leading to the proceedings of which we complained in the Gulf of Mexico, as they are not explained, we freely admit that we are unable to conjecture.

We do not profess to be better acquainted with the conventional arrangements between Great Britain and Spain than Gen. Cass. But, with him, we understand that by them, Spain, for the pecuniary compensation of £600,000, expressly stipulated to put a stop to the African slave-trade throughout the whole extent of her dominions. This contract was made with Great Britain—the consideration money was paid by the latter power—and Gen. Cass, with his accustomed sagacity, in discerning the real obstacle to the accomplishment of the object to be attained, and the effectual mode of doing it—assuming this to be the real state of the case—suggests that England, having the right, should demand of Spain "the faithful performance of the duties which she has voluntarily assumed," adding that "upon the course of the Spanish government far more depends than upon the most rigorous blockade of the African coast." Such is the plain unvarnished statement of the case. There have been no "directions" given by the Government of the United States, no "request," and, indeed, no language, hint or suggestion of any sort, which could lead as its "natural result" to the acts of which we complained.

We have perhaps digressed from our appropriate path to comment upon this misunderstanding of the language of our distinguished Secretary of State; but we cannot leave this subject and resume our direct purpose without expressing our entire and cordial concurrence in the views taken by Gen. Cass, when he remarks, "there is another mode of proceeding, without the dangers and difficulties and ineffi-

ciency which beset a blockade, and which is sure to succeed if adopted and persevered in; and that is, to close the slave-marts of the world, or rather the island of Cuba, which is now almost the only region where the slave-dealer can find a market. If these unfortunate victims could not be sold they would not be bought. To shut the ports of Cuba to their entrance is to shut the ports of Africa to their departure."

In the enunciation of the general proposition, Gen. Cass merely expresses one of the axiomatic truths of political economy. Where there is no demand there will be no supply. In his application of this obvious principle, he but follows the footsteps of one of the most profound and sagacious among British statesmen. The same truth, with the same application, was made more than sixty years since by a no less eminent man than Edmund Burke.

The learned writer has not been more fortunate in the remark that the British government was justified in "deeming that the right of visit, as it had been exercised on the one coast, would be unobjectionable on the other." Surely Mr. W. must have read the correspondence between the two governments—and particularly the despatch of Mr. Secretary Cass, which he quotes—with very little attention, to have failed to observe that the right of search on the African coast, so far from being unobjectionable, was the constant theme of complaint and remonstrance. Indeed, until recently, when similar annoyances were, for the first time, experienced in our more immediate vicinity, the exercise of this right, on the other side of the Atlantic, presented the prominent ground of difference between the two nations.

Properly understood, the American Secretary in his despatch alluded to, so far from inviting the British government, either separately or conjointly with our own, to establish a squadron off the coast of Cuba for the suppression of the slave-trade, points out the right which England has obtained by her "conventional arrangements" with Spain "to demand" of that power "the faithful performance of duties which she had voluntarily assumed."

He expresses his decided conviction that the extinction of this traffic depends upon the course to be pursued by the Spanish government, and that Great Britain possesses the right to direct that course, and never intimates a word as to the transfer of a blockading squadron, far less, of the asserted right of search, from the one coast to the other.

It can scarcely admit of a doubt that the Spanish West India Islands are now the only places in the Western Hemisphere where the slave-trader finds a market for the disposition of the victims of his nefarious traffic. It is equally true, that if the market is closed, the trade must cease. It is not questioned that Great Britain has acquired by treaty an engagement upon the part of Spain, that such markets shall be closed, and it is equally clear that with the right to demand and the power to enforce the performance of this obligation, it still remains unexecuted. The causes which have led to this posture of things remain among the mysterious arcana of English and Spanish diplomacy. So far as the world knows, for some reasons not yet disclosed, Great Britain has omitted to insist upon and enforce the per-

formance of an obligation for which she has paid a large pecuniary consideration, and Spain, having pocketed the stipulated price which she required for the concession, withholds a compliance with her side of the bargain.

Similar arrangements were made with Brazil, the only other Christian power which allowed and afforded encouragement to the African slave-dealer. That government was slow in the performance of its engagements. Did Great Britain silently submit to this state of affairs, and allow Brazil to evade or avoid the performance of her duties? Far from it; finding all remonstrance ineffectual, she took the matter into her own hands, stretching to the utmost extent the rights she had purchased, if not transcending any authority derived from the law of nations, to compel their execution. Parliament enacted a statute, empowering her cruisers and her courts to enforce upon the people of Brazil the obligations which their government had assumed. This measure, the right of which was, to say the least, questionable, upon any principle of public law, at once accomplished the desired object. The slave-trade has become extinct along the entire coast of that extended and prosperous empire.

While British statesmen, in their official annunciations, and British orators, in their periodical declamations, are continually lauding this energetic policy of their government in its dealing with Brazil, they refer to the continuance of the odious traffic within the dominions of Spain in a very different strain. Some portion of their vituperation is, of course, heaped upon Spain for her faithlessness in the discharge of her obligations; but their fiercest denunciations are poured out against the United States. The continuance of the trade is attributed, as we have seen in all quarters, to the inefficiency of our laws and the want of energy in their administration; to the illegal and unwarranted assumption of our flag: to the forgery of American papers. It does at first sight appear strange that an innocent individual, whose apparel has been stolen from him and worn as a disguise by the burglar or the murderer, should be charged with the guilt of the crimes thus perpetrated under color of his dress: that the bank or merchant, whose name has been forged by the adroit swindler, should be denounced as the culprit, instead of the actual rogne by whom the fraud has been committed; that the United States should be loaded with all the odium of the transaction, because her flag has been unlawfully assumed, and forgery has been committed in simulating papers, purporting to be issued under her sanction, and this, too, when the British cruisers who make this representation of the case, according to their own statements, having ascertained, by personal inspection, that such frauds have been committed, and the parties to it known, and actually in their power, suffer the evidence upon which it is based to be destroyed, the guilty offenders to escape with impunity, and content themselves with pocketing the proceeds of the crime, and throwing the entire odium and responsibility upon the United States.

If this view of the case, drawn, if not entirely, yet mainly from British sources, did not at once present itself to every observing mind, the questions would readily suggest themselves, with a full knowledge

of the course which has been pursued by England towards Brazil, and the effects which that policy has accomplished, why have not the same energetic measures been adopted in regard to Spain? If the one was bound by treaty to close the market for African slaves, is not the other under the same obligation? If the remissness on the part of Brazil to perform the duty she had assumed justified England in taking the matter into her own hands, and enforcing the obligation by her own means, and if such policy has been proved by experience to be thoroughly effective, why is not the same measure of coercion employed to enforce the same duty on Spain?

These and similar interrogatories, naturally growing out of the real facts in the case, and suggested by the letter of Mr. Secretary Cass, so frequently referred to, will continue to be put, and in our judgment they merit a response. The United States, its Government, and its people, its legislature, and its judiciary, its civil and military functionaries, have been arraigned at the bar of public opinion. The accusations which have been preferred are of the gravest character; they profess to be founded upon testimony, which, if it does not in all quarters command implicit credit, yet, on its face is at least plausible, and has, in the estimation of British functionaries, been regarded as furnishing a sufficient basis upon which to found these heavy charges. On behalf of the parties thus arraigned, I plead not guilty to the charges. I deny both the competency and the credibility of the evidence upon which they profess to be sustained. I object to the accusing party as being, from his own representations, so obviously the criminal, not merely as accessory, but as principal, that he has no right to attempt to shift the responsibility of his own acts and omissions from his own shoulders, and fasten it upon another. Unless I have entirely misapprehended the whole matter, and no pains have been spared to acquire a just comprehension of the subject, if not in all, yet certainly in most of its principal features, I feel authorized to demand and insist upon a thorough investigation of the entire case. Unless very much deceived, the result of such an inquiry, as has been suggested, would not only be to pursue the strategic policy of Scipio by carrying the war into Africa, but it would be followed by equal results, which would not only exonerate my country and its various representatives from unmerited censure, but throw back upon the accuser the obloquy due to the offender.

